



Appeal Decision

Site visit made on 27 June 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2023

Appeal Ref: APP/J0405/C/22/3308032

Land at Lodge Fields, Akeley Wood Lodge Road, Akeley, Buckinghamshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Ann Wills against an enforcement notice issued by Buckinghamshire Council - North Area (Aylesbury).
- The notice was issued on 16 August 2022.
- The breach of planning control as alleged in the notice is without planning permission, (1) the material change of use of the Land from agriculture to a mixed use of agriculture and residential facilitated by the siting of 6 touring caravans, the laying of hardstanding and the construction of an earth bund; and (2) operational development consisting of the laying of hardstanding and construction of an earth bund.
- The requirements of the notice are to:
 - Step 1: Permanently cease the unauthorised residential use of the Land.
 - Step 2: Permanently remove the six caravans from the Land.
 - Step 3: Permanently remove all residential paraphernalia, including vehicles, from the Land.
 - Step 4: Permanently remove the earth bund, located within the area hatched black on the attached Plan 2, from the Land and ensure all material used in its construction is removed from the Land.
 - Step 5: Permanently remove (demolish) the hardstanding located within the area crosshatched black on the attached Plan 2, from the Land and ensure all material used in its construction is permanently removed from the Land.
 - Step 6: Reinstate the Land outlined in thick black line on Plan 2 to its appearance immediately prior to unauthorised development which consisted of open agricultural grassland back-fill, using soil, where required, to ensure a consistent level with adjacent land following the removal of the hardstanding, earth bund and caravans from the Land and sow the Land with grass seed.
 - Step 7: Permanently remove (demolish) the hard standing, located within the area cross hatched black on the attached Plan 3, from the Land and ensure all material used in its construction is permanently removed from the Land.
 - Step 8: Permanently remove the earth bund, located within the area hatched black on the attached Plan 3, from the land and ensure all material used in its construction is removed from the Land.
 - Step 9: Reinstate the land outlined in thick black line on Plan 3 to its appearance immediately prior to unauthorised development which consisted of open agricultural grassland and back-fill, using soil, where required, to ensure a consistent level with adjacent land following the removal of the hardstanding and earth bund from the Land and sow the Land with grass seed.
 - Step 10: Permanently remove any debris or materials from the Land that arise as a result of complying with Steps 1,2,3,4,5,6,7,8 and 9 of this Notice.
- The period for compliance with the requirement is: 4 Months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant has confirmed that in light of the findings of the Ecological Impact Assessment carried out by Elite Ecology, they no longer wish to pursue the ground (a) and ground (c) appeal in relation to the earth bund and hard standing identified in Plan 2 attached to the enforcement notice (the Notice). Furthermore, the appellant has withdrawn the ground (c) appeal in relation to the residential use of the caravans and ground (b) appeal in its entirety. I have determined the appeal on this basis.
2. Section 177(1)(a) of the Town and Country Planning Act 1990 (the Act) only allows the grant of planning permission in respect of matters stated in the Notice as constituting a breach of planning control "whether in relation to the whole or any part of those matters". The appellant requests that the ground (a) appeal includes the siting of the caravans for seasonal workers. The Council contend that this is not possible under s177(1)(a) as the allegation does not include the siting of touring caravans for seasonal workers.
3. The Council argue that prior to the Notice being issued, the appellant confirmed via email that the caravans are not all occupied by seasonal workers¹. However, in this correspondence referred to by the Council the appellant confirms the caravans are occupied by 'workmen' who are there during the harvest season to harvest the straw. Whilst the appellant confirms that 'some of the caravans are the harvest workers caravans and they will be taken away at the end of the season', I do not read this as confirmation that not all of the caravans are occupied by the workers. It is entirely plausible that it simply means some of the caravans are owned by the workers. The other caravans could be in the ownership of the appellant, which are also occupied by workers. There is no other evidence that suggests they were occupied by anyone else other than workers at the time.
4. The material change of use of the land as set out in the Notice is to a mixed use of agriculture and residential facilitated by the siting of 6 touring caravans, the laying of hardstanding and the construction of an earth bund. The use of the caravans for seasonal workers would be a residential use, albeit the use would be on a seasonal basis. I note the allegation does not state that the residential use of the land through the siting of the touring caravans is on a permanent basis. Were I minded to allow the appeal under ground (a), an appropriately worded condition could restrict the use of the caravans to certain times of the year for seasonal workers only. Such a condition would not conflict with the allegation. Accordingly, I am satisfied that the consideration of the siting of the touring caravans for seasonal workers would be permissible under s177(1)(a).

The Notice

5. The breach of planning control alleged in paragraph 3 of the Notice includes 'the material change of use of the land...to a mixed use of agriculture and residential'. However, Step 1 of the requirements states 'Permanently cease

¹ Exhibit MM3 of the Council's Statement of Case

the unauthorised residential use of the land'. The allegation is a mixed use with residential being a component of this mixed use, rather than a use in and of itself. Therefore, Step 1 does not align with the allegation. Nevertheless, within the four corners of the Notice, it is evidently clear what is required to do to remedy the breach. Consequently, I shall correct Step 1 to read 'Permanently cease the mixed use comprising agriculture and residential by ceasing the residential component.'

6. "The Land" identified on Plan 1 attached to the Notice includes a field which the appellant confirms is not in their ownership or control. During my site visit, it was clear that this field fell outside the land on which the alleged breaches of planning control were taking place. Therefore, I shall correct the plan to omit this field.
7. I consider that I can carry out these corrections without causing injustice to any parties.
8. Within their evidence, the Council make reference to a storage and haulage use taking place on the appeal site. Given the potential implications of this on the validity of the appeal, ie. what the correct use of the site is, the parties were given the opportunity to comment on this matter. The Council confirm that at the time the Notice was issued, the site was not used for storage and haulage. The appellant confirms that no storage or haulage operation is taking place on the site. Accordingly, I have determined the appeal on the basis that the allegation in the Notice was correct at the time it was issued.

The ground (c) appeal

9. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the Notice do not constitute a breach of planning control. The burden of proof is upon the appellant.

Earth Bund (identified on Plan 3 attached to the Notice)

10. Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) states that "*the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*" is permitted development, subject to limitations. The appellant contends that the earth bund adjacent to the building is an enclosure and is therefore permitted development.
11. The bund the subject of this ground (c) appeal is a largely linear bund, going from one point straight to another with only a slight return, set behind the boundary hedge of the field. Given its largely linear form and the fact that it does not form a boundary to the site I do not consider that it encloses anything. Therefore, it is not an enclosure.
12. I have been referred to a previous appeal decision for a site in Great Yarmouth², whereby the Inspector found that an earth bund was an enclosure. Whilst the details of the development to which this previous appeal relates are limited to the decision notice, there appears to be marked differences between that earth bund and the earth bunds the subject of this appeal. Notably, the Inspector found that that the bund contributed to the outer boundary of the

² Appeal Reference: T/APP/96/U2615/642679 & 80.

land, thus effectively enclosing the land. In this instance, the hedge adjacent to the road forms the outer boundary of the site.

13. Notwithstanding the above, the judgement in *Ewen Developments Ltd v SSE & North Norfolk DC* [1980] JPL 404 endorsed an Inspector's finding that earth bunds amounted to an engineering operation and therefore were not permitted development. However, it is important to note this judgement did not find that all earth bunds are engineering operations. The same can be said of *Lovejoy v SoS and Caradon District Council* [1998] EWHC Admin 1011. Both cases illustrate that it is a matter of fact and degree whether earth bunds are permitted development or engineering operations. In this instance, the bund is approximately 5m wide, approximately 1.5m-1.8m high and runs approximately 120m from the gated access to the site to the north west corner and returns for a short length towards the north east. Given the size of the bund, its creation would have no doubt required the use of heavy plant and machinery and pre-planning. Consequently, it would have amounted to an engineering operation, which would have required planning permission.
14. Even if I found the bund was an enclosure and was not an engineering operation, the bund was created as part of the wider development carried out on site, including the creation of the hardstanding and the erection of the straw store barn. Indeed, the appellant confirms that the bund was created from the topsoil excavated for the construction of the barn. The entirety of the works including the earth bund, hardstanding and the barn were therefore carried out as a single development.
15. It is not permissible to separate out parts of one development and to argue that those benefit from the grant of planning permission by way of the GPDO and that other parts of the same development are to be assessed separately. As one building operation, falling within the meaning of development as set out in section 55 of the Act, either the whole of the development benefits from permitted development or none of the development benefits from permitted development. By reason that part of the development indisputably required express planning permission, ie the barn, none of it can be permitted development.

The hardstanding (identified on Plan 3 attached to the Notice)

16. Schedule 2, Part 6, Class A of the GPDO states that "The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of— (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit" is permitted development. It is disputed whether the hardstanding is reasonably necessary for the purposes of agriculture within the unit.
17. The appellant contends the hardstanding apron around the barn is required to enable tractors and trailers to access the straw when loading and unloading and for the storage of straw on it to prevent it rotting on the open ground. The Council argue that the area of hardstanding is excessive and include a swept path analysis to support their argument that a much smaller area would serve the required purpose of enabling vehicles to turn. However, apart from the hardstanding to the south of the site, which the appellant has confirmed does not form part of the ground (a) or ground (c) appeal, the only other hardstanding the Notice attacks is the hardstanding apron around the barn.

Given its width, it is not likely that this area would be used for turning vehicles, particularly a tractor and trailer. Moreover, it does not address the appellant's contention that the hardstanding would also be used for storing straw. Therefore, the swept path analysis is of little relevance.

18. Notwithstanding the above, the appellant confirms there could be approximately 4000-5000 bales of straw stored on the site, which are baled on a number of local farms and transported back to the site where it is stacked. Given the appeal site is approximately 16 hectares, it is reasonable to conclude that the vast majority, if not all, of the straw stored on the site is harvested from other farms. Therefore, as the hardstanding is used for the storage of straw that is harvested from other farms, it is not 'reasonably necessary for the purposes of agriculture within that unit' because as a matter of fact, it is for the purposes of agriculture from other units, ie the other farms.
19. As with the earth bund, even if I found that the hardstanding was reasonably necessary for the purposes of agriculture within the unit, because it forms part of a larger, single development which required express planning permission it could not be permitted development.

Conclusion on the ground (c) appeal

20. I have found that the earth bund and the hardstanding identified on Plan 3 attached to the Notice are not permitted development. The appeal on ground (c) therefore fails.

The ground (a) appeal and the deemed planning application

21. The main issues are:

- The effect of the development on the character and appearance of the area;
- Whether the site represents a suitable location for residential development, with regard to the Council's housing growth strategy;
- The effect of the development on highway safety;
- The effect of the development on the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance;
- The effect of the development on biodiversity; and,
- The effect of the development on the provision of versatile agricultural land.

Character and Appearance

22. The appeal site comprises a collection of open, agricultural fields, which, with the exception of the alleged development and the straw store barn, are free from built form. The surrounding land similarly comprises open fields, which are interspersed with sporadic dwellings and small clusters of development. Overall, the open fields and limited built form makes a positive contribution to the character and appearance of the rural area.
23. The Council confirm that the site is located within the Landscape Character Assessment Area Maids Moreton Plateau, Stowe Area of Attractive Landscape, Biodiversity Opportunity Area Whittlewood Forest and in an area of sensitive landscape which is adjacent to Landscape Character Assessment Area Lillingstone Wet Farmland. The appellant confirms that a key characteristic of

the Maids Moreton Plateau is its flat gently sloping landform; open views; straight lanes with wide grass verges; large woodland in the north; strong hedgerows cut low; predominantly arable farming in medium sized fields; and, smaller fields and more pasture close to Maids Moreton. Whilst I have not been presented with the details of the other designations, the site clearly forms part of a rural, agricultural landscape of particular merit.

24. Due to its height, width and length, the earth bund identified on Plan 3 attached to the Notice is readily visible through gaps in the adjacent boundary hedge with Akeley Wood Lodge Road. Rather than appearing as a natural form that is part of the topography of the site, it is clearly seen as an engineered feature that contrasts with the openness of the site. Moreover, it is read as simply being the soil waste from the barn rather than serving a specific, intended purpose.
25. Although the bund partly screens the barn and surrounding hardstanding, and further landscaping could enhance this, it would only screen them for a short stretch of the road until one reaches the wide access to the site from where the barn is visually prominent. Moreover, planting of the bund would still result in it failing to respect the natural topography of the land.
26. I acknowledge that the barn is clearly more prominent than the bund. However, the barn has an agricultural function and therefore assimilates onto the agricultural landscape. The bund serves no such function and therefore is an incongruous addition in the landscape.
27. At the time of my site visit there were no caravans on the appeal site. However, the siting of 6 caravans would significantly contrast with the open, agricultural character of the site and the surrounding area. Their domestic appearance and typical lightweight design with light colouring would result in them appearing as incongruous features within the agricultural landscape, detracting significantly from its character and appearance.
28. I acknowledge that their use for seasonal workers means the caravans would only be on the site for part of the year. Nevertheless, even during this period of time, the harm they would have to the character and appearance of the site and area would be unacceptable.
29. With regard to the hardstanding identified on Plan 3, this surrounds three sides of the barn. It consists of stone and crushed rubble and follows the topography of the land around the barn, allowing access into the barn from the sides. Due to its low level, and notwithstanding the bund largely screening it, it is not readily visible from the road. Moreover, when it is visible it is clearly read as being integral to the functioning of the barn. At the time of my visit, the south west component of the hardstanding was largely occupied by a stack of straw and therefore not visible. Therefore, when the hardstanding is used to stack straw it would not be visible. Furthermore, the hardstanding is read against the backdrop of the barn, for which it is read as part and parcel of and therefore does not appear as an incongruous feature.
30. The Council questions the need for the hardstanding as agricultural vehicles can negotiate all terrains. However, in inclement weather, particularly during the winter months, accessing the building with a tractor on bare ground would likely churn up the ground to a significant extent. Whilst the building would be stacked with straw during the harvest season when the ground is drier, the

straw would be taken from the building during the winter/spring when the ground is likely to be wetter. Therefore, I consider the hardstanding serves a functional need for the optimal agricultural use of the building and to prevent undue damage to the surrounding ground.

31. I therefore find that the hardstanding does not have a harmful effect on the character and appearance of the area. However, the earth bund and caravans have a significantly harmful effect on the character and appearance of the area. As such, they are contrary to Policies BE2, BE4, NE4 and E9 Vale of Aylesbury Local Plan 2021 (LP), which, amongst other matters, seek to ensure development respects the physical characteristics of the site and its surroundings including the scale and context of the site and its setting; has an appropriate density; and, agricultural development is necessary and appropriate for the use. It would also be in conflict with sections C1, I1 and I2 of the National Design Guide (NDG), which highlights the importance of understanding and responding to local context and well-designed development. Moreover, it would fail to accord with the design objectives of the National Planning Policy Framework (Framework).

Location

32. Policy S2 of the LP sets out the Council's housing growth strategy, focusing housing development within specific settlements. Outside these settlements, housing development will be strictly limited. Policy S3 of the LP sets out the settlement hierarchy where this development will be focused and states that new development in the countryside should be avoided especially where it would compromise the character of the countryside between settlements, and result in a negative impact on the identities of neighbouring settlements or communities leading to their coalescence.
33. The appeal site does not fall within any of the settlements identified in Policies S2 and S3. Accordingly, for planning purposes, it is located within the countryside.
34. The caravans would be used for residential purposes, albeit on a seasonal basis. As I have found above, the caravans would be harmful to the character and appearance of the area. Therefore, on the face of it, they would be contrary to the Council's housing growth strategy.
35. The appellant contends that the caravans are required to house seasonal workers that would be working on the appeal site and therefore it would minimise the use of fossil fuels. However, the occupants of the caravans would likely need to travel for shopping and other facilities and services. The absence of any such services and facilities within reasonable walking distance of the site means they would likely travel by car to access them, thus likely counteracting any minimisation of fossil fuels used through not having to drive to work. I also note the nearest bus stop is approximately 850m from the site and therefore is not likely to be utilised to access such services and facilities.
36. There is no evidence before me that there is not suitable alternative accommodation for the workers nearby. I note the proximity of the site to large settlements such as Buckingham and Milton Keynes, which are within reasonable distance of the site and have a wide range of services and facilities. Moreover, only a short walk from the site is a caravan and camping site, Hedgehog Retreat, where the stationing of the caravans would assimilate with

the existing caravan and camping site use and therefore not have a harmful effect on the character and appearance of the area.

37. In addition to the above, whilst I accept that seasonal workers may be required, it has not been demonstrated that there is a need for them to be accommodated on the site.
38. I find therefore, the appeal site is not a suitable location for the siting of the caravans for seasonal workers. As such, it is contrary to Policies S1, S2, S3 and S5 of the LP, which promote sustainable development and set out where housing development should be located. It would also be contrary to the Framework, which seeks to promote sustainable development.
39. Policy D5 of the LP relates to development in other settlements than those identified in Policy S2 of the LP. As the development is not located within a settlement of any sort, Policy D5 is not relevant.

Highway Safety

40. The appeal site is accessed off a narrow lane. As the barn benefits from planning permission there is an expectation that there would be some traffic movements in and out of the site associated with the agricultural use of the site.
41. The Council contend that the roads serving the area are not suitable to accommodate the increase in traffic generated by the development. However, whilst the introduction of 6 caravans on the site would increase the number of vehicles moving in and out of the site and using the local highway network, I do not consider that it would be to such an extent that it would have a detrimental affect on the standard of the roads. I also note that no provision has been made for new pedestrian and cycle routes. However, given the relatively small number of caravans and that they would only be occupied seasonally, I do not consider that such provision is necessary.
42. I note there is no designated parking provision for the caravans. However, notwithstanding the potential effect of such provision on the character and appearance of the area, in the event that I allow the appeal, such provision could be sufficiently secured within the site through the imposition of an appropriately worded condition.
43. I find therefore that the development does not have a detrimental effect on highway safety. As such, it complies with Policies T1, T5 and T6 of the LP, section M3 of the NDG and the Framework, which all seek to ensure development does not unacceptably harm highway safety.

Biodiversity

44. The appeal site lies within the Impact Risk Zone of the Foxcote Reservoir and Wood Site of Special Scientific Interest (SSSI). The appeal is accompanied by an Ecological Impact Assessment (EIA), dated September 2022, prepared by Elite Ecology.
45. The findings of the EIA are that the predicted effects on habitats and species as a result of the development that has been carried out is negligible. Furthermore, it confirms that the impact on the SSSI, which is approximately

1000m from the site is also negligible. The Council raise no objections to the findings of the EIA.

46. The EIA suggests mitigation measures to improve habitats for species, one such measure being the creation of a pond. However, given that such a pond may in itself require planning permission, in the event that I allow the ground (a) appeal, it could not be secured via a planning condition. Nevertheless, I am satisfied that the other measures proposed would provide sufficient mitigation and therefore a pond is not necessary to make the development acceptable.
47. I find therefore, based on the evidence before me, the development does not harm biodiversity. As such, it complies with Policies NE1 of the LP, section N3 of the NDG and the Framework, which all seek to protect biodiversity.

Living Conditions

48. There are several residential properties located along Akeley Wood Lodge Road. However, they are located at such a distance from the appeal site that any noise generated by the occupants of the 6 caravans would not be readily discernible to the occupants of these properties.
49. Whilst there would be an increase in vehicle movements along the road, it would not be to such an extent that the occupants of the neighbouring properties would readily notice such movements. It would certainly not be to such an extent that would result in an unacceptable level of noise generated by the traffic.
50. Were I minded to allow the appeal, I am satisfied that appropriate waste facilities could be provided to serve the caravans during the time they would be stationed on the site.
51. Given the above, the siting of the caravans on the site on a seasonal basis would not harm the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance. As such, it complies with Policy BE3 of the LP, which seeks to protect the amenity of residents. It would also comply with section H3 of the NDG, which seeks to ensure development provides adequate waste facilities.

Versatile Agricultural Land

52. Paragraph 174 of the Framework says that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. The Glossary of the Framework defines the best and most versatile agricultural land as being Grades 1, 2 and 3a. Grades 1-3a are similarly defined as the best and most versatile agricultural land in Policy NE7 of the LP, which restricts development on such land.
53. The Council confirm the appeal site is located on 'Grade 3 Good to Moderate agricultural land'; however, Grade 3 is split into two sub-categories – 3a and 3b. 3a is 'good quality agricultural land', whereas 3b is 'moderate quality agricultural land'. Although the Council does not explicitly state whether the land is Grade 3a or 3b, they do state it is on 'moderately versatile agricultural

land'. Therefore, the use of the word 'moderately' in this context suggests the land is Grade 3b. Policy NE7 of the LP does not restrict development on Grade 3b land.

54. The hardstanding identified on Plan 3 is functionally related to the barn and the agricultural use of the site. Therefore, as it is used for agricultural purposes it has not resulted in an unacceptable loss of versatile agricultural land.
55. The earth bund and the caravans do not serve any agricultural function and therefore would result in some loss of agricultural land. However, the overall area of land covered by the bund and caravans is moderate in size. Furthermore, as the agricultural land is only of a moderate quality, the subsequent harm, as a result of the loss, would be limited.
56. The Council state that no marketing exercise has been carried out for the land and as a consequence it fails to meet 'this aspect of the policy'. However, it is not clear what policy the Council is referring to.
57. I find therefore that the development does not have any unacceptable harm on the provision of versatile agricultural land. As such, I find no conflict with Policy NE7 of the LP or the Framework.

Other Matters

58. I note the concerns raised regarding the number of articulated lorries accessing the site and the effect this has on the local highway network. However, my consideration of the ground (a) appeal has been based on the use of the site at the time the Notice was issued, which has been confirmed by both the Council and the appellant that it was a mixed use of agriculture and residential. Whether or not a storage/haulage use commenced after the Notice was issued is not a matter for my consideration.
59. I note the appellant's contention that the earth bund acts as a repository for soil that could be used on the holding at some point in the future. However, there is no indication of what it could be used for or, more importantly, when. There is a likelihood that it may never be used and therefore remain on the site indefinitely. Accordingly, I attribute the fact that the soil could be reused on the site at some point in the future very limited weight.
60. The Council contend that no details have been provided regarding surface and foul water drainage for the caravans. However, if I were minded to allow the appeal, I am satisfied that such matters could be sufficiently addressed by way of appropriately worded conditions.
61. I have had regard to the economic benefits of the proposal in that the occupants of the caravans would utilise local shops, services and facilities, thus supporting the local economy. However, such benefits would be on a seasonal basis and the relatively small number of caravan occupants would likely only make a limited contribution when they are on site. Whilst the occupants of the caravans would be employed, this would only be seasonal and therefore would be of limited benefit to the local job market.
62. The Council also raise concern that the development would set a precedent for other similar developments. However, I have not been presented with any such similar case and given the circumstances of the subject development it is

unlikely that such a precedent would be established. In any event, each case is considered on its own planning merits.

Conditions

63. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the conditions as necessary.
64. In the interests of biodiversity, a condition is necessary to ensure the protected species mitigation strategy and landscape and ecological management plan are implemented.
65. The development does not include any dwellinghouses. Therefore, the removal of permitted development rights pertaining to fences, gates and walls erected on the curtilage of a dwellinghouse does not relate to the development. Therefore, I shall not impose such a condition.
66. There is no justification provided as to why permitted development pertaining to hard surfaces should be removed. Therefore, I shall not impose such a condition.
67. The lawful use of the land is agriculture. It is typical for such uses, particularly ones that have a lawful building such as the barn on the appeal site to store goods, plant and materials outside that are part of the agricultural operation. This could include items such as feed or implements. To prohibit such storage would be unreasonable. Therefore, I shall not impose such a condition.
68. There is no evidence before me as to why it is necessary to restrict the storage of materials at a height of more than 6/7 metres. Similarly, there is no justification for why there should be no floodlighting. Therefore, I shall not impose such conditions.
69. I have found the development is not harmful to highway safety and therefore improvements to the highway and a transport statement is not reasonable. In addition, controlling the number of vehicle movements to and from the site would unreasonably restrict the lawful operation of the agricultural use. Moreover, the provision of wheel washing facilities would be excessive and would not reasonably relate to the approved development, ie the hardstanding. Therefore, I shall not impose such conditions.
70. I have found the caravans would be unacceptable. Therefore, conditions are not necessary regarding their seasonal use, waste treatment provision nor landscaping.

Planning Balance

71. I have found that the development would not result in any unacceptable harm to biodiversity, highway safety, the living conditions of neighbouring residents nor the provision of versatile agricultural land. In addition, the hardstanding identified on Plan 3 would not harm the character and appearance of the area nor the Council's housing growth strategy. However, these are neutral effects and do not weigh in favour of or against the development. With regard to the earth bund and the caravans I find that there are no benefits that outweigh the harm I have found with regard to the effect on the character and appearance of the area and the Council's housing growth strategy. Given that the

hardstanding is clearly severable from the earth bund and caravans, I shall make a split decision.

Conclusion on the ground (a) appeal and the deemed planning application

For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude the ground (a) appeal and the deemed planning application should succeed in part and planning permission will be granted for the hardstanding identified on Plan 3 attached to the Notice, but refused for the earth bund and caravans. On the facts and circumstances of the case, a split decision causes no injustice or prejudice to any party.

Split decision: the effect of section 180 of the Act

72. Section 180 of the Act states that where, after the service of a notice, planning permission is granted for any development carried out before the grant of that permission the notice shall cease to have effect so far as it is inconsistent with that permission. In this case, the appeal on ground (a) will be allowed in part. If the requirements of the Notice were varied to exclude that part of the development for which planning permission is being granted, then this could give rise to two inconsistent permissions, one being granted under s173(11) as a variation of cutting down the requirements. To avoid this possibility, I take the view that the requirements should not be varied. Reliance will be placed on operation of s180 to mitigate the effect of the Notice in so far as it is inconsistent with the permission.

The ground (f) appeal

73. This ground is that the notice requirements are excessive. Depending on the purpose of the notice, this can be assessed against the question of whether the requirements exceed what is necessary to remedy the breach of planning control; or, any injury to amenity.
74. The appellant's ground (f) appeal is made on the basis that the requirement to permanently remove the caravans interferes with the appellant's permitted development rights pertaining to bringing caravans on the site under Schedule 2, Part 5, Class A of the GPDO and for the purposes of agriculture which would not amount to development.
75. However, that is not the case. The provisions of s180 that I have referred to above regarding a split decision also apply in this situation. After the service of the Notice, planning permission would still be granted by the GPDO for development under Schedule 2, Part 5, Class A. The Notice does not remove these rights.
76. The requirements of the Notice relate to the alleged breach of planning control identified in the Notice, eg the residential use of the caravans. Therefore, it does not prevent the stationing of caravans on the site in use as part of the lawful use of the site, ie agriculture, which may not amount to development.
77. Given the above, I find that the requirements of the Notice do not exceed what is necessary to remedy the breach of planning control or the injury to amenity.
78. The ground (f) appeal therefore fails.

The ground (g) appeal

79. This ground of appeal is that the period for compliance is unreasonably short.
80. The appellant states that a 12 month period for compliance is necessary to enable the necessary works to comply with the requirements to be undertaken in between straw being cleared from the site and being harvested. Also, it would ensure the works can take place when the land is dry.
81. I have found the hardstanding identified on Plan 3 is acceptable and grant planning permission for it and the caravans have already been removed.
82. The hardstanding and earth bund identified on Plan 2 are not used for the storage of straw and are relatively small in area. Therefore, there would likely be a sufficiently dry enough period with 4 months that would enable their removal.
83. With regard to the earth bund identified on Plan 3, this lies adjacent to hardstanding from which vehicles could access the bund to remove it and therefore not be too restricted by wet ground. Whilst the hardstanding that has straw stored on it would not be able to be used in this way, the stretch of bund adjacent to this would be relatively short and therefore could reasonably be removed during a dry enough spell within the 4 month compliance period.
84. From the available evidence, I consider the 4 month period of compliance specified in the notice is not unreasonably short, and I do not find justification for extending it. I am also mindful that the Council have the power to vary the period of compliance under section 173A (1)(b) of the Act should they see fit to do so, although this is not to be prejudiced by my decision.
85. I therefore conclude that the ground (g) appeal must fail.

Formal Decision

86. It is directed that the enforcement notice is corrected by:
- a) The deletion of Step 1 under paragraph 5 of the Notice and substituting "Permanently cease the mixed use comprising agriculture and residential by ceasing the residential component."
 - b) The deletion of Plan 1 attached to the Notice and substituting the plan in Appendix 1 of this decision.
87. Subject to the correction, the appeal is allowed insofar as it relates to the land shown edged black on the plan annexed to the Notice and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the laying of a hardstanding as shown on Plan 3 annexed to the Notice at Land at Lodge Fields, Akeley Wood Lodge Road, Akeley, Buckinghamshire subject to the condition below.
- 1) Within 3 months of the date of this decision an ecological enhancement plan, including habitat mitigation and enhancement of the site in accordance with the recommendations of the submitted Ecological Impact Assessment, dated September 2022, prepared by Elite Ecology, insofar as it relates to the approved development, and a timetable for implementation, shall be submitted to and approved in writing by the

local planning authority. The approved details shall be carried out in accordance with the approved timetable for implementation.

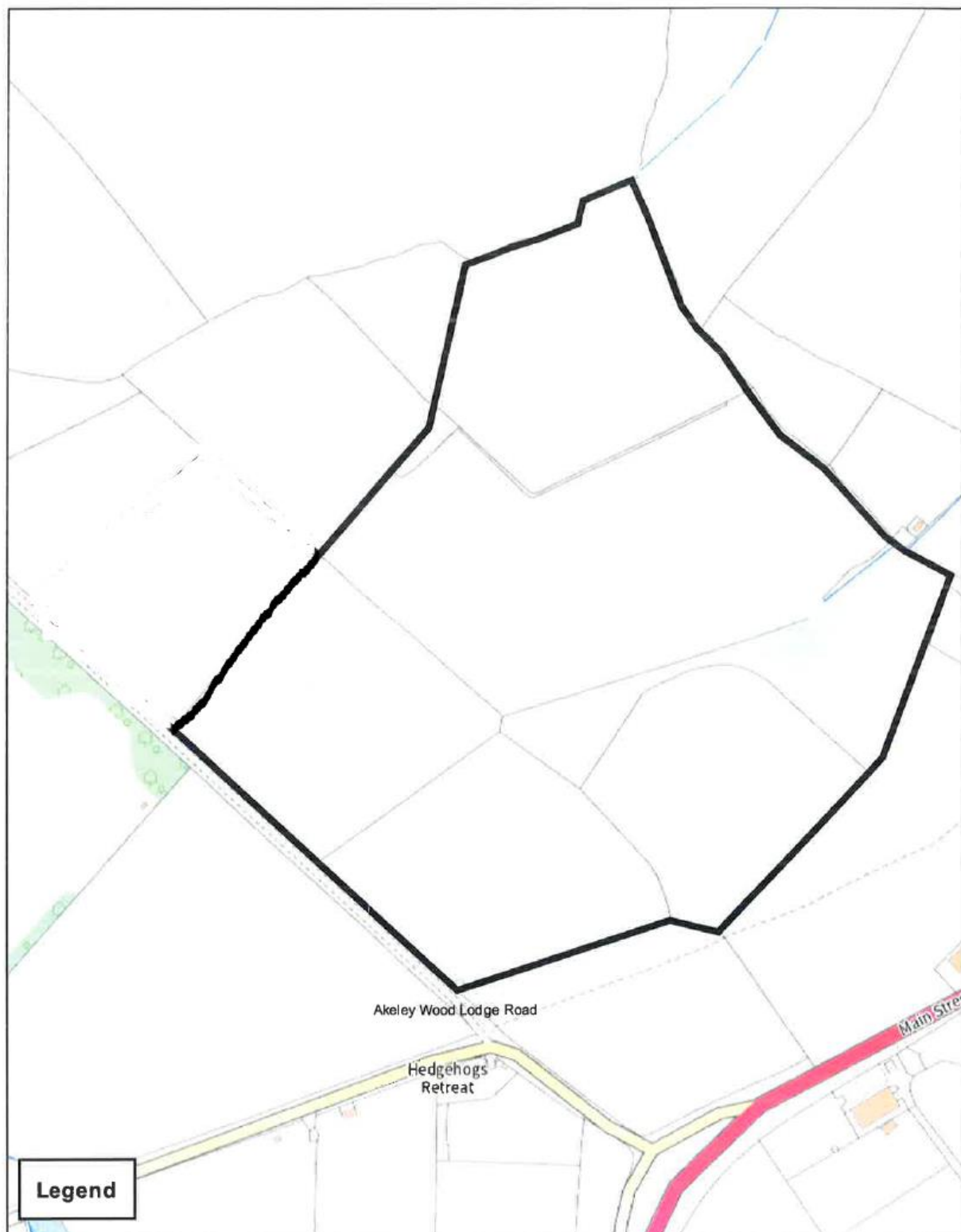
88. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to (1) the material change of use of the land from agriculture to a mixed use of agriculture and residential facilitated by the siting of 6 touring caravans, the laying of hardstanding and the construction of an earth bund and (2) operational development consisting of the construction of an earth bund at Land at Lodge Fields, Akeley Wood Lodge Road, Akeley, Buckinghamshire and planning permission is refused in respect of (1) the material change of use of the land from agriculture to a mixed use of agriculture and residential facilitated by the siting of 6 touring caravans, the laying of hardstanding and the construction of an earth bund and (2) operational development consisting of construction of an earth bund, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Alexander Walker

INSPECTOR

Appendix 1

Plan to be substituted for Plan 1 attached to the Notice



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0 0.035 0.07 0.14 km
1:3,307

"the Land" - Plan 1



Date: 12/08/2022

